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2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 HERIBERTO TORIBIO-RUIZ,

Case No. 3:17-cv-00674-MMD-CLB

7 Plaintiff,

ORDER

8 v.

9 ISIDRO BACA, *et al.*,

10 Defendants.

11 Plaintiff Heriberto Toribio-Ruiz, who is in the custody of the Nevada Department of
12 Corrections, is permitted to proceed a claim (Count I) for deliberate indifference to serious
13 medical needs under 42 U.S.C. § 1983. (ECF No. 3 at 6–7.) Before the Court is the Report
14 and Recommendation (“R&R” or “Recommendation”) of United States Magistrate Judge
15 Carla L. Baldwin (ECF No. 57), recommending that the Court deny Defendants’ motion for
16 summary judgment¹ (“Motion”) (ECF No. 45) and Plaintiff’s motion for hearing (ECF No
17 54). (ECF No. 57.) The parties had until April 3, 2020, to file an objection. (*Id.*) To date, no
18 objection to the R&R has been filed. For this reason, and as discussed below, the Court
19 adopts the R&R.

20 This Court “may accept, reject, or modify, in whole or in part, the findings or
21 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party
22 fails to object to a magistrate’s recommendation, the Court is not required to conduct “any
23 review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474
24 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir.
25 2003) (“De novo review of the magistrate judges’ findings and recommendations is
26 required if, but *only* if, one or both parties file objections to the findings and
27 recommendations.”) (emphasis in original); Fed. R. Civ. P. 72, Advisory Committee Notes

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1Plaintiff did not file an opposition to the Motion.

1 (1983) (providing that the court “need only satisfy itself that there is no clear error on the
2 face of the record in order to accept the recommendation”).

3 While the Court need not conduct a *de novo* review, the Court has reviewed the
4 R&R and agrees with Judge Baldwin that material issues of fact exist to preclude summary
5 judgment. (ECF No. 57 at 8.)

6 It is therefore ordered that Judge Baldwin’s Report and Recommendation (ECF No.
7 57) is adopted.

8 It is further ordered that Defendants’ motion for summary judgment (ECF No. 45)
9 is denied.

10 It is further ordered that Plaintiff’s motion for hearing (ECF No. 54) is denied as
11 moot.

12 DATED THIS 3rd day of April 2020.



MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE